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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,670	12/31/2003	Lionel Poincenot	CLEV:628	2778

6160 7590 03/02/2005

PARKHURST & WENDEL, L.L.P.
1421 PRINCE STREET
SUITE 210
ALEXANDRIA, VA 22314-2805

EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,670

Applicant(s)

POINCENOT ET AL.

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4,8,13 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-12,14,15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: 2/22/05
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. The argument that the LPA structure and the SCA structure are independent is agreed with. Based on a phone discussion on about 22 February 2004 applicant also elected the embodiment of an LPA structure being non-planar to combine with a head having a SCA which is non-planar. As such claims 4, 8, 13, and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 17 December 2004. The arguments that it would not be a different field or be a serious burden to the examiner in conducting a search are disagreed with. Planar areas would required a different search using the word searching engines through patent literature as well as looking for the 4 different possibilities claimed for a head. It is agreed that all combinations would be classified in the same area but due to the different searches required the restriction as modified in this Office Action is proper and stands.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3711

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-7, 9-10, 12, 14-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimazaki.

Shimazaki discloses an iron type head having a center of gravity (CG), a static contact point (SCP) on a sole, a SCP able to be vertically below a CG at an address position with no point lower than a SCP in the form of a golfer placing a head on a ground in this orientation (Figs. 6-7), an SCP and at least two other points substantially vertically below the CG defining a non-planar static contact surface area (SCA) in the form of the sole have a curved shape to it (Fig. 6), a SCP and at least one other point substantially vertically below the CG define a contact line (SCL) in the form of when the club is addressed as shown in figure 6 since as shown by figures 6-7 the lowest bottom of the sole shows a straight line profile from the front to rear direction (Fig. 7), a centerline plane orthogonal to the plane of the club face and containing the centerline of the face, a center of gravity lying in the centerline plane (Fig. 6, [0013], [0014]), the lowest point (LP) on a sole also lying substantially in a centerline plane when a center line plane is substantially vertical (Fig. 6), a non-planar lowest point surface area (LPA) comprised of points substantially vertically below a center of gravity when a centerline plane is vertical and not points of a sole are lower than the LP when a centerline plane is vertical (Fig. 6), and a head having both a SCA and a LPA (Fig. 6) by addressing a head differently for a SCA.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimazaki.

Shimazaki lacks a head having both a SCP and a LP with a SCP and at least one other point substantially vertically below the CG defining a static contact line SCL. Shimazaki discloses a profile for the face to the back having a straight configuration and contour lines near a toe end of a sole of a head having straight lines from the face to the back of a head (Fig. 7). Clearly an artisan skilled in the art of forming an iron head with a rounded sole from the heel to the toe would have selected a suitable profile from the face to the back of an iron at a sole other than where the sole contacts the ground in figure 6 in which a straight profile from the face to the back is included. It would have been obvious to modify the head of Shimazaki to have a head having both a SCP and a LP with a SCP and at least one other point substantially vertically below the CG defining a static contact line SCL in the form of the straight line from the face to the back in order to utilize a known method in the market place of forming soles from the heel to toe used in making golf club heads.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lundberg discloses a center of gravity on a vertical plane behind the center of a face located above a LP (Fig. 10). 2002-102397 discloses a center of gravity on a vertical plane behind the center of a face. Hamada discloses a CG above a LP (Fig. 15).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (571) 272-4406. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (571) 272-4415. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 24 February 2005


STEPHEN BLAU
PRIMARY EXAMINER